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SENATE BILL 318

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

MANNY M. ARAGON

AN ACT

RELATING TO FINANCING OF CORRECTIONAL FACILITIES; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX BONDS AND NEW MEXICO FINANCE AUTHORITY REVENUE BONDS FOR ACQUISITION OF CORRECTIONAL FACILITIES; AUTHORIZING THE CORRECTIONS DEPARTMENT TO ENTER INTO CONTRACTS TO HOUSE INMATES; CREATING A FUND; REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; REPEALING A SECTION OF LAWS 1995; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. CORRECTIONAL FACILITIES ACQUISITION FUND
CREATED. --

A. The "correctional facilities acquisition fund" is created in the state treasury. The fund shall consist of severance tax bond proceeds, New Mexico finance authority revenue bond proceeds and appropriations to the fund. Except

Underscored material = new
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1 as provided in Subsection C of this section, balances in the
2 fund at the end of any fiscal year shall remain in the fund.
3 Earnings from investment of the fund shall be credited to the
4 fund.

5 B. Money in the correctional facilities
6 acquisition fund is available for appropriation by the
7 legislature for the acquisition of correctional facilities.

8 C. Upon certification by the secretary of
9 corrections and the secretary of general services to the
10 department of finance and administration that no additional
11 money is needed from the correctional facilities acquisition
12 fund for the acquisition of correctional facilities, any
13 balances remaining in the fund shall be transferred to the
14 general fund.

15 Section 2. CONTRACT TO HOUSE ADULT INMATES IN TREATMENT
16 OR SPECIAL PROGRAM FACILITIES. --

17 A. The corrections department shall solicit
18 proposals for the purpose of entering into a contract with a
19 private detention facility pursuant to Subsection G of Section
20 31-20-2 NMSA 1978 to operate both an adult female
21 reintegration facility and an in-prison substance abuse
22 treatment facility for adult male inmates.

23 B. The facility contracting with the corrections
24 department pursuant to Subsection A of this section shall:

25 (1) be privately financed, designed,

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1 constructed and operated by the contractor; provided that a
2 facility financed by bonds issued pursuant to the Industrial
3 Revenue Bond Act or the County Industrial Revenue Bond Act and
4 sold to the contractor shall be privately financed by the
5 contractor for the purposes of this paragraph;

6 (2) consist of a two-hundred-fifty-bed adult
7 female reintegration facility and a four-hundred-bed adult
8 male in-prison substance abuse treatment facility located
9 adjacent to each other in a correctional complex located in
10 the middle Rio Grande corridor; and

11 (3) certify that the facility was built by a
12 primary contractor and subcontractors that:

13 (a) maintain their primary places of
14 business in New Mexico;

15 (b) hired laborers for construction of
16 the facility as employees, rather than as independent
17 contractors, and who are New Mexico residents;

18 (c) provided health care benefits,
19 retirement benefits and unemployment insurance to their
20 employees working on construction of the facility; and

21 (d) maintain apprenticeship programs
22 for their employees.

23 C. The corrections department shall solicit
24 proposals and award any contract pursuant to this section in
25 accordance with the provisions of the Procurement Code. The

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Underscored material = new
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1 contract shall include such terms and conditions as the
2 department may require after consultation with the general
3 services department; provided that the terms and conditions
4 shall include provisions that:

5 (1) set forth comprehensive standards for
6 conditions of incarceration;

7 (2) require the facility to meet or exceed
8 corrections department standards and meet appropriate
9 certification requirements within one year after beginning
10 operation and remain accredited through the life of the
11 contract;

12 (3) require the contractor to assume all
13 liability caused by or arising out of all aspects of the
14 provision or operation of the facility;

15 (4) require liability insurance or other
16 proof of financial responsibility acceptable to the general
17 services department that covers the contractor and its
18 officers, employees and agents in an amount sufficient to
19 cover all liability caused by or arising out of all aspects of
20 the provision or operation of the facility;

21 (5) require termination for cause upon ninety
22 days' notice to the contractor for failure to meet contract
23 provisions when such failure seriously affects the
24 availability or operation of the facility;

25 (6) provide that venue for enforcement of the

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1 contract shall be in the district court for Santa Fe county;

2 (7) require continuation of the contract to
3 be subject to the availability of funds;

4 (8) provide that compliance with the contract
5 shall be monitored by the corrections department and the
6 contract may be terminated for noncompliance; and

7 (9) payments under the contract shall be made
8 only on a per diem per inmate basis.

9 Section 3. NEW MEXICO FINANCE AUTHORITY--PUBLIC PROJECT
10 APPROVAL.--Pursuant to the provisions of Section 6-21-6 NMSA
11 1978, the legislature authorizes the New Mexico finance
12 authority to issue and sell revenue bonds in installments or
13 at one time in an amount not to exceed fifteen million dollars
14 (\$15,000,000) payable solely from the public project revolving
15 fund for the acquisition of correctional facilities on terms
16 and conditions established by the authority when the
17 corrections department certifies the need for the issuance of
18 the bonds. The net proceeds from the sale of the bonds shall
19 be deposited in the correctional facilities acquisition fund
20 for appropriation by the legislature for acquisition of
21 correctional facilities.

22 Section 4. SEVERANCE TAX BONDS--PURPOSE.--The state
23 board of finance shall issue and sell severance tax bonds in
24 compliance with the Severance Tax Bonding Act in an amount not
25 to exceed forty-four million dollars (\$44,000,000) when the

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Underscored material = new
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1 corrections department certifies the need for the issuance of
2 the bonds. The state board of finance shall schedule the
3 issuance and sale of the bonds in the most expeditious and
4 economical manner possible upon a finding by the board that
5 the project has been developed sufficiently to justify the
6 issuance and that the project can proceed to contract within a
7 reasonable time. The state board of finance shall further
8 take the appropriate steps necessary to comply with the
9 Internal Revenue Code of 1986, as amended. The proceeds from
10 the sale of the bonds shall be deposited in the correctional
11 facilities acquisition fund for appropriation by the
12 legislature for acquisition of correctional facilities. Any
13 unexpended or unencumbered balance remaining six months after
14 completion of a project shall revert to the severance tax
15 bonding fund. If the corrections department has not certified
16 the need for the issuance of the bonds by the end of fiscal
17 year 2000, the authorization provided in this section shall be
18 void.

19 Section 5. MIDDLE RIO GRANDE CORRIDOR CORRECTIONAL
20 FACILITY STUDY. --

21 A. The corrections department shall conduct a
22 study of the feasibility of locating a six-hundred-bed medium
23 security correctional facility for adult male inmates adjacent
24 to a correctional complex in the middle Rio Grande corridor
25 consisting of four hundred in-prison substance abuse treatment

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1 beds for adult males and two hundred fifty female
2 reintegration beds for adult females. The study shall focus
3 on a comparison of the advantages, cost-savings and other
4 differences between private and public operation of the medium
5 security facility, which would be located adjacent to a
6 correctional complex that includes an in-prison substance
7 abuse facility and a female reintegration facility, and the
8 feasibility of public and private sharing of infrastructure or
9 services among areas in the central campus of that
10 correctional complex.

11 B. The corrections department shall present the
12 results of the study, including its findings and
13 recommendations, to the appropriate interim legislative
14 committee dealing with corrections and the legislative finance
15 committee prior to November 1, 1998 and to the first session
16 of the forty-fourth legislature.

17 Section 6. APPROPRIATION--HOUSING INMATES IN CIBOLA
18 COUNTY--CONTRACT PROVISIONS.--

19 A. Two million dollars (\$2,000,000) is
20 appropriated from the general fund to the corrections
21 department for expenditure in fiscal year 1999 to contract
22 with Cibola county to house additional inmates at the Cibola
23 county corrections center. Any unexpended or unencumbered
24 balance remaining at the end of fiscal year 1999 shall revert
25 to the general fund.

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B. The contract entered into pursuant to Subsection A of this section shall provide:

(1) that the total number of state inmates housed at the Cibola county corrections center shall equal five hundred fifty-two medium-security inmates and one hundred seventy-six minimum-restrict inmates; and

(2) that the corrections department shall not reduce the number of inmates housed at the Cibola county corrections center below the numbers specified in Paragraph (1) of this subsection unless it has first removed all similarly classified state inmates from all other private, county-operated or out-of-state correctional facilities.

Section 7. APPROPRIATION--GENERAL FUND. -- Eight million five hundred thousand dollars (\$8,500,000) is appropriated from the general fund to the correctional facilities acquisition fund for expenditure in fiscal year 1998 and subsequent fiscal years for acquisition of correctional facilities. Any unexpended or unencumbered balance remaining in the correctional facilities acquisition fund after any fiscal year shall not revert to the general fund.

Section 8. ACQUISITION OF CORRECTIONAL FACILITIES--CONDITIONS--APPROPRIATIONS. --

A. Sixty-seven million five hundred thousand dollars (\$67,500,000) is appropriated from the correctional facilities acquisition fund to the property control division

Underscored material = new
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1 of the general services department for expenditure in fiscal
2 years 1998 through 2000 in the following amounts for the
3 following purposes:

4 (1) thirty-five million dollars (\$35,000,000)
5 to acquire an eight-hundred-bed correctional facility in Lea
6 county that is expandable to one thousand two hundred beds;
7 and

8 (2) thirty-two million five hundred thousand
9 dollars (\$32,500,000) to acquire a six-hundred-bed
10 correctional facility in Guadalupe county that is expandable
11 to nine hundred beds.

12 B. Each county or political subdivision in the
13 county in which a correctional facility is to be located
14 pursuant to Subsection A of this section shall provide land
15 for the facility site and arrange for utilities, roads and
16 related infrastructure needs to the property line of the
17 facility site in the form of in-kind contributions. In
18 addition to the appropriation in Paragraph (1) of Subsection A
19 of this section, the city of Hobbs and Lea county shall
20 contribute jointly ten million dollars (\$10,000,000) in local
21 matching funds for the correctional facility project
22 authorized in Lea county pursuant to that paragraph.

23 C. No contract for the acquisition of a facility
24 shall be entered into pursuant to Subsection A of this section
25 unless the secretary of corrections certifies that the

Underscored material = new
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1 facility will be built by a primary contractor and
2 subcontractors that:

3 (1) maintain their primary places of business
4 in New Mexico;

5 (2) hire laborers for construction of the
6 facility as employees, rather than as independent contractors,
7 and who are New Mexico residents;

8 (3) provide health care benefits, retirement
9 benefits and unemployment insurance to their employees working
10 on construction of the facility; and

11 (4) maintain apprenticeship programs for
12 their employees.

13 Section 9. REPEAL. --

14 A. Section 7-27-5.22 NMSA 1978 (being Laws 1995,
15 Chapter 215, Section 2) is repealed.

16 B. Laws 1995, Chapter 214, Section 2 is repealed.

17 Section 10. EMERGENCY.--It is necessary for the public
18 peace, health and safety that this act take effect
19 immediately.

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

3
4
5
6 February 5, 1998

7
8 Mr. President:

9
10 Your COMMITTEES' COMMITTEE, to whom has been referred

11
12 SENATE BILL 318

13
14 has had it under consideration and finds same to be GERMANE, in
15 accordance with constitutional provisions, and thence referred to the
16 FINANCE COMMITTEE.

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19 Respectfully submitted,

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24 _____
25 Manny M. Aragon, Chairman

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(Chief Clerk)

(Chief Clerk)

Date _____

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SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 318

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

AN ACT

RELATING TO THE FINANCING OF CORRECTIONAL FACILITIES;
AUTHORIZING THE ISSUANCE OF NEW MEXICO FINANCE AUTHORITY
REVENUE BONDS TO CONTRACT WITH LEA COUNTY AND GUADALUPE COUNTY
TO ACQUIRE CORRECTIONAL FACILITIES CURRENTLY UNDER
CONSTRUCTION IN THOSE COUNTIES; AUTHORIZING THE CORRECTIONS
DEPARTMENT TO ASSUME BY ASSIGNMENT FROM LEA COUNTY AND
GUADALUPE COUNTY THE OPERATIONS CONTRACTS FOR THE CORRECTIONAL
FACILITIES IN THOSE COUNTIES; DISTRIBUTING A PORTION OF THE
GROSS RECEIPTS TAX TO A SPECIAL FUND AND PLEDGING THE REVENUES
FOR PAYMENT OF BONDS; CREATING A FUND; ENACTING SECTIONS OF
THE NMSA 1978; MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Tax Administration Act
is enacted to read:

. 123275. 4

underscored material = new
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1 "[NEW MATERIAL] DISTRIBUTION-- GROSS RECEIPTS TAX-- PRISON
2 BONDING FUND.-- A distribution pursuant to Section 7-1-6.1 NMSA
3 1978 shall be made to the prison bonding fund in the amount of
4 eight hundred thirty-three thousand three hundred thirty-four
5 dollars (\$833,334) of the net receipts attributable to the
6 gross receipts tax imposed pursuant to the Gross Receipts and
7 Compensating Tax Act. "

8 Section 2. A new section of the New Mexico Finance
9 Authority Act is enacted to read:

10 "[NEW MATERIAL] AUTHORIZATION OF NEW MEXICO FINANCE
11 AUTHORITY BONDS-- ACQUISITION OF PRISONS-- PRISON BONDING FUND--
12 APPROPRIATION. --

13 A. The "prison bonding fund" is created within the
14 New Mexico finance authority. The fund shall be administered
15 by the authority as a separate account, and the authority may
16 create such subaccounts as the authority deems necessary to
17 carry out the purposes of the fund. The authority is
18 authorized to establish procedures as required to administer
19 the fund in accordance with the New Mexico Finance Authority
20 Act.

21 B. The prison bonding fund shall consist of gross
22 receipts tax revenues distributed to the fund pursuant to the
23 Tax Administration Act.

24 C. Money in the prison bonding fund not needed for
25 immediate disbursement, including any money held in reserve,

1 may be deposited with the state treasurer for short-term
 2 investment pursuant to Section 6-10-10.1 NMSA 1978 or may be
 3 invested in direct and general obligations of or obligations
 4 fully and unconditionally guaranteed by the United States,
 5 obligations issued by agencies of the United States, obligations
 6 of this state or any political subdivision of the state,
 7 interest-bearing time deposits, commercial paper issued by
 8 corporations organized and operating in the United States and
 9 rated "prime" quality by a national rating service or as
 10 otherwise provided by the trust indenture or bond resolution, if
 11 money in the fund is pledged for or to secure payment of bonds
 12 issued by the authority.

13 D. The authority shall establish fiscal controls and
 14 accounting procedures that are sufficient to ensure proper
 15 accounting for prison bonding fund payments, disbursements and
 16 balances.

17 E. At the end of any fiscal year, after all debt
 18 service charges, establishment or replenishment of reserves and
 19 other costs of or related to all outstanding revenue bonds, notes
 20 or other obligations payable from the prison bonding fund are
 21 satisfied, the balance remaining in the fund shall be transferred
 22 by the authority to the state treasurer for deposit in the
 23 general fund.

24 F. The New Mexico finance authority shall pledge
 25 irrevocably all of the revenues distributed to the prison bonding

. 123275. 4

1 fund for the payment of principal, interest and any other
2 expenses or obligations related to revenue bonds issued by the
3 New Mexico finance authority for the purpose of acquiring
4 correctional facilities in Lea and Guadalupe counties.

5 G. A law that imposes or authorizes the imposition of
6 the gross receipts tax or that affects the gross receipts tax or
7 that requires distribution of the gross receipts tax to the
8 prison bonding fund, or a law supplemental to or otherwise
9 pertaining to the tax, shall not be amended, repealed or
10 otherwise directly or indirectly modified so as to impair
11 outstanding revenue bonds that may be secured by a pledge of the
12 gross receipts tax distributed to the prison bonding fund, unless
13 the outstanding revenue bonds have been discharged in full or
14 provisions have been for a full discharge."

15 Section 3. TERMS AND CONDITIONS FOR ACQUIRING CORRECTIONAL
16 FACILITIES. --

17 A. The state's acquisition of correctional facilities
18 in Lea and Guadalupe counties shall be contingent upon the
19 following:

20 (1) continuing inspections during construction of
21 the correctional facilities by the construction industries
22 division of the regulation and licensing department and issuance
23 of a certificate of occupancy for the correctional facilities by
24 that division;

25 (2) completion of the construction of the

1 correctional facilities;

2 (3) certification by the general services
3 department that the correctional facilities satisfy all
4 applicable physical and operational correctional design
5 standards;

6 (4) inclusion of a corrections industries building
7 at the Lea county facility that can accommodate one hundred
8 twenty inmates;

9 (5) inclusion of a corrections industries building
10 at the Guadalupe county facility that can accommodate sixty
11 inmates;

12 (6) inclusion of appropriate family visitation
13 units at each correctional facility; and

14 (7) all housing unit fixtures and cell fixtures
15 in the correctional facilities shall be stainless steel, except
16 for fixtures in the three-hundred-bed therapeutic community
17 treatment unit located at the Lea county facility.

18 B. The corrections department is authorized to assume
19 by assignment from Lea county and Guadalupe county the operations
20 contracts for the correctional facilities entered into by the
21 counties and an independent contractor, subject to appropriate
22 amendments or modifications to the operations contracts. The
23 operations contracts between the corrections department and the
24 independent contractor shall be for an initial term of five
25 years. The corrections department shall have the option, to be

. 123275. 4

underscored material = new
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1 exercised solely by the corrections department, to renew the
2 operations contracts for two-year terms following the initial
3 term of five years. The operations contracts between the
4 corrections department and the independent contractor shall be
5 subject to annual legislative appropriations.

6 C. Inmate programs provided at the Lea county and
7 Guadalupe county correctional facilities shall include the
8 following programs, which shall be equal to or shall exceed
9 programs provided in state-run correctional facilities:

- 10 (1) adult basic education;
- 11 (2) pre-general-equivalency-diploma;
- 12 (3) general equivalency diploma;
- 13 (4) English as a second language;
- 14 (5) special education;
- 15 (6) post-secondary education;
- 16 (7) vocational education;
- 17 (8) anger management;
- 18 (9) life skills;
- 19 (10) basic substance abuse education;
- 20 (11) pre-release counseling;
- 21 (12) mental health counseling;
- 22 (13) work;
- 23 (14) religion;
- 24 (15) therapeutic community treatment provided at a
25 three-hundred-bed therapeutic community chemical dependency

1 treatment program located at the Lea county facility;

2 (16) family therapy; and

3 (17) prison industries.

4 Section 4. NEW MEXICO FINANCE AUTHORITY--REVENUE BONDS--
5 PURPOSE--APPROPRIATION OF PROCEEDS.--

6 A. The New Mexico finance authority may issue and sell
7 revenue bonds, payable solely from the prison bonding fund, in
8 compliance with the provisions of the New Mexico Finance
9 Authority Act in an amount not to exceed sixty-eight million two
10 hundred thousand dollars (\$68,200,000), with a final maturity no
11 later than July 1, 2008, for the purpose of acquiring state
12 correctional facilities in Lea and Guadalupe counties, including,
13 to the extent necessary, payment of costs of issuance of the
14 bonds and establishing necessary reserves for the bonds, when the
15 corrections department certifies the need for the issuance of the
16 bonds.

17 B. The net proceeds from the bonds authorized in
18 Subsection A of this section are appropriated to the corrections
19 department for the acquisition of two state correctional
20 facilities, one located in Lea county and one located in
21 Guadalupe county. The corrections department is authorized to
22 contract with Lea county and Guadalupe county to acquire
23 correctional facilities currently under construction in those
24 counties pursuant to a contract between the counties and an
25 independent contractor. The acquisition of the correctional

. 123275. 4

1 facilities shall include all development costs, including
2 capitalized interest costs not to exceed two million nine hundred
3 thousand dollars (\$2,900,000) and all construction costs, but
4 shall not include bond transaction costs, the underwriter's
5 commission or early termination premiums. Additionally the
6 acquisition of the correctional facilities shall be contingent
7 upon compliance with the terms and conditions set forth in
8 Section 3 of this act.

9 C. The revenue bonds issued by the New Mexico finance
10 authority pursuant to this section shall constitute a special
11 limited obligation of the New Mexico finance authority, payable
12 solely from the prison bonding fund, and shall never constitute
13 or be construed as a debt or general obligation of the state or
14 any political subdivision of the state under the laws or the
15 constitution of New Mexico.

16 Section 5. DELAYED REPEAL. --Section 1 of this act is
17 repealed effective July 1, 2008 or on any earlier date that shall
18 be the first day of the month following the month that the New
19 Mexico finance authority certifies that all obligations for the
20 revenue bonds issued pursuant to Section 3 of this act have been
21 fully discharged.

22 Section 6. EFFECTIVE DATE. --The effective date of the
23 provisions of Section 1 of this act is July 1, 1998.

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 318

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

AN ACT

RELATING TO THE FINANCING OF CORRECTIONAL FACILITIES;
AUTHORIZING THE ISSUANCE OF NEW MEXICO FINANCE AUTHORITY
REVENUE BONDS TO CONTRACT WITH LEA COUNTY AND GUADALUPE COUNTY
TO ACQUIRE CORRECTIONAL FACILITIES CURRENTLY UNDER
CONSTRUCTION IN THOSE COUNTIES; AUTHORIZING THE CORRECTIONS
DEPARTMENT TO ASSUME BY ASSIGNMENT FROM LEA COUNTY AND
GUADALUPE COUNTY THE OPERATIONS CONTRACTS FOR THE CORRECTIONAL
FACILITIES IN THOSE COUNTIES; DISTRIBUTING A PORTION OF THE
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3 1978 shall be made to the prison bonding fund in the amount of
4 eight hundred thirty-three thousand three hundred thirty-four
5 dollars (\$833,334) of the net receipts attributable to the
6 gross receipts tax imposed pursuant to the Gross Receipts and
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8 Section 2. A new section of the New Mexico Finance
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15 by the authority as a separate account, and the authority may
16 create such subaccounts as the authority deems necessary to
17 carry out the purposes of the fund. The authority is
18 authorized to establish procedures as required to administer
19 the fund in accordance with the New Mexico Finance Authority
20 Act.

21 B. The prison bonding fund shall consist of gross
22 receipts tax revenues distributed to the fund pursuant to the
23 Tax Administration Act.

24 C. Money in the prison bonding fund not needed for
25 immediate disbursement, including any money held in reserve,

underscored material = new
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1 may be deposited with the state treasurer for short-term
 2 investment pursuant to Section 6-10-10.1 NMSA 1978 or may be
 3 invested in direct and general obligations of or obligations
 4 fully and unconditionally guaranteed by the United States,
 5 obligations issued by agencies of the United States, obligations
 6 of this state or any political subdivision of the state,
 7 interest-bearing time deposits, commercial paper issued by
 8 corporations organized and operating in the United States and
 9 rated "prime" quality by a national rating service or as
 10 otherwise provided by the trust indenture or bond resolution, if
 11 money in the fund is pledged for or to secure payment of bonds
 12 issued by the authority.

13 D. The authority shall establish fiscal controls and
 14 accounting procedures that are sufficient to ensure proper
 15 accounting for prison bonding fund payments, disbursements and
 16 balances.

17 E. At the end of any fiscal year, after all debt
 18 service charges, establishment or replenishment of reserves and
 19 other costs of or related to all outstanding revenue bonds, notes
 20 or other obligations payable from the prison bonding fund are
 21 satisfied, the balance remaining in the fund shall be transferred
 22 by the authority to the state treasurer for deposit in the
 23 general fund.

24 F. The New Mexico finance authority shall pledge
 25 irrevocably all of the revenues distributed to the prison bonding

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1 fund for the payment of principal, interest and any other
2 expenses or obligations related to revenue bonds issued by the
3 New Mexico finance authority for the purpose of acquiring
4 correctional facilities in Lea and Guadalupe counties.

5 G. A law that imposes or authorizes the imposition of
6 the gross receipts tax or that affects the gross receipts tax or
7 that requires distribution of the gross receipts tax to the
8 prison bonding fund, or a law supplemental to or otherwise
9 pertaining to the tax, shall not be amended, repealed or
10 otherwise directly or indirectly modified so as to impair
11 outstanding revenue bonds that may be secured by a pledge of the
12 gross receipts tax distributed to the prison bonding fund, unless
13 the outstanding revenue bonds have been discharged in full or
14 provisions have been for a full discharge."

15 Section 3. TERMS AND CONDITIONS FOR ACQUIRING CORRECTIONAL
16 FACILITIES. --

17 A. The state's acquisition of correctional facilities
18 in Lea and Guadalupe counties shall be contingent upon the
19 following:

20 (1) continuing inspections during construction of
21 the correctional facilities by the construction industries
22 division of the regulation and licensing department and issuance
23 of a certificate of occupancy for the correctional facilities by
24 that division;

25 (2) completion of the construction of the

1 correctional facilities;

2 (3) certification by the general services
3 department that the correctional facilities satisfy all
4 applicable physical and operational correctional design
5 standards;

6 (4) inclusion of a corrections industries building
7 at the Lea county facility that can accommodate one hundred
8 twenty inmates;

9 (5) inclusion of a corrections industries building
10 at the Guadalupe county facility that can accommodate sixty
11 inmates;

12 (6) inclusion of appropriate family visitation
13 units at each correctional facility; and

14 (7) all housing unit fixtures and cell fixtures
15 in the correctional facilities shall be stainless steel, except
16 for fixtures in the three-hundred-bed therapeutic community
17 treatment unit located at the Lea county facility.

18 B. The corrections department is authorized to assume
19 by assignment from Lea county and Guadalupe county the operations
20 contracts for the correctional facilities entered into by the
21 counties and an independent contractor, subject to appropriate
22 amendments or modifications to the operations contracts. The
23 operations contracts between the corrections department and the
24 independent contractor shall be for an initial term of five
25 years. The corrections department shall have the option, to be

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underscored material = new
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1 exercised solely by the corrections department, to renew the
2 operations contracts for two-year terms following the initial
3 term of five years. The operations contracts between the
4 corrections department and the independent contractor shall be
5 subject to annual legislative appropriations.

6 C. Inmate programs provided at the Lea county and
7 Guadalupe county correctional facilities shall include the
8 following programs, which shall be equal to or shall exceed
9 programs provided in state-run correctional facilities:

- 10 (1) adult basic education;
- 11 (2) pre-general-equivalency-diploma;
- 12 (3) general equivalency diploma;
- 13 (4) English as a second language;
- 14 (5) special education;
- 15 (6) post-secondary education;
- 16 (7) vocational education;
- 17 (8) anger management;
- 18 (9) life skills;
- 19 (10) basic substance abuse education;
- 20 (11) pre-release counseling;
- 21 (12) mental health counseling;
- 22 (13) work;
- 23 (14) religion;
- 24 (15) therapeutic community treatment provided at a
25 three-hundred-bed therapeutic community chemical dependency

1 treatment program located at the Lea county facility;

2 (16) family therapy; and

3 (17) prison industries.

4 Section 4. NEW MEXICO FINANCE AUTHORITY--REVENUE BONDS--
5 PURPOSE--APPROPRIATION OF PROCEEDS.--

6 A. The New Mexico finance authority may issue and sell
7 revenue bonds, payable solely from the prison bonding fund, in
8 compliance with the provisions of the New Mexico Finance
9 Authority Act in an amount not to exceed sixty-eight million two
10 hundred thousand dollars (\$68,200,000), with a final maturity no
11 later than July 1, 2008, for the purpose of acquiring state
12 correctional facilities in Lea and Guadalupe counties, including,
13 to the extent necessary, payment of costs of issuance of the
14 bonds and establishing necessary reserves for the bonds, when the
15 corrections department certifies the need for the issuance of the
16 bonds.

17 B. The net proceeds from the bonds authorized in
18 Subsection A of this section are appropriated to the corrections
19 department for the acquisition of two state correctional
20 facilities, one located in Lea county and one located in
21 Guadalupe county. The corrections department is authorized to
22 contract with Lea county and Guadalupe county to acquire
23 correctional facilities currently under construction in those
24 counties pursuant to a contract between the counties and an
25 independent contractor. The acquisition of the correctional

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1 facilities shall include all development costs, including
2 capitalized interest costs not to exceed two million nine hundred
3 thousand dollars (\$2,900,000) and all construction costs, but
4 shall not include bond transaction costs, the underwriter's
5 commission or early termination premiums. Additionally the
6 acquisition of the correctional facilities shall be contingent
7 upon compliance with the terms and conditions set forth in
8 Section 3 of this act.

9 C. The revenue bonds issued by the New Mexico finance
10 authority pursuant to this section shall constitute a special
11 limited obligation of the New Mexico finance authority, payable
12 solely from the prison bonding fund, and shall never constitute
13 or be construed as a debt or general obligation of the state or
14 any political subdivision of the state under the laws or the
15 constitution of New Mexico.

16 Section 5. DELAYED REPEAL. --Section 1 of this act is
17 repealed effective July 1, 2008 or on any earlier date that shall
18 be the first day of the month following the month that the New
19 Mexico finance authority certifies that all obligations for the
20 revenue bonds issued pursuant to Section 3 of this act have been
21 fully discharged.

22 Section 6. EFFECTIVE DATE. --The effective date of the
23 provisions of Section 1 of this act is July 1, 1998.

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

February 13, 1998

Mr. President:

Your FINANCE COMMITTEE, to whom has been referred

SENATE BILL 318

has had it under consideration and reports same with
recommendation that it DO NOT PASS, but that

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 318

DO PASS.

Respectfully submitted,

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SFC/SB 318

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Ben D. Altami rano, Chair man

Adopted _____ Not Adopted _____
(Chi ef Clerk) (Chi ef Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: None

Excused: Aragon, Romero, Smi th,

Absent: None

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